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8 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Petition to Revoke  
11 Probation Against:

Case No. 800-2017-034809

12 **LIEN JAY KYRI, M.D.**  
6451 Silent Harbor Drive  
13 Huntington Beach, CA 92648

**DEFAULT DECISION  
AND ORDER**

14 Physician's and Surgeon's Certificate No. A122548  
15 Respondent.

[Gov. Code, §11520]

16  
17 **FINDINGS OF FACT**

18 1. Petitioner Kimberly Kirchmeyer, in her official capacity as the Executive Director of  
19 the Medical Board of California, filed Petition to Revoke Probation No. 800-2017-034809 against  
20 Lien Jay Kyri, M.D. (Respondent) before the Board.

21 2. On or about August 17, 2012, the Medical Board of California (Board) issued  
22 Physician's and Surgeon's Certificate No. A122548 to Respondent. Said Certificate expired on  
23 February 28, 2014, and has not been renewed.

24 3. Prior action has been taken by the Medical Board against this certificate as follows:  
25 On July 7, 2010 a Statement of Issues was filed. On March 23, 2012 a Decision After Non-  
26 Adoption became effective under which Respondent's application for an unrestricted Physician's  
27 and Surgeon's Certificate was denied; however, a five-year probationary license was issued upon  
28 completion of precedent conditions. On April 20, 2012, Respondent's probationary certificate



1 was suspended pending completion of a psychological evaluation; and, on August 8, 2012, the  
2 suspension was lifted. On November 13, 2014, an Accusation and Petition to Revoke Probation  
3 was filed. On May 19, 2017, a Decision After Reconsideration (Decision) became effective which  
4 read: Revoked, Stayed, Five Years Probation with Terms and Conditions. A copy of the Decision  
5 is filed herewith as Exhibit A.<sup>1</sup>

6 4. Under the terms of the Decision, Respondent's probationary license and the probation  
7 provided in disciplinary order in Case No. 20-2010-205464 were revoked. However, the  
8 revocation of license was stayed, and Respondent was placed on probation for five years. Terms  
9 and Conditions of Probation pertinent to this Petition to Revoke Probation include:

- 10 • Psychotherapy: Respondent was required to undergo psychotherapy during probation  
11 (Condition 1);
- 12 • Coursework: Respondent was required to enroll in and complete courses/programs in  
13 Interpersonal Skills, Conflict Resolution and Anger Management (Conditions 2, 3, 4);
- 14 • Practice Monitor: Respondent was ordered to nominate a practice monitor and practice  
15 under an approved monitor (Condition 5);
- 16 • Standard Terms and Conditions of Probation, which specifically include submission of  
17 quarterly declarations, compliance with the Board's probation unit, keeping the Board  
18 informed of business and residence addresses, email address, and telephone number.  
19 Respondent must maintain a current and renewed California license, be available for  
20 interviews with the Board's probation unit (Conditions 11, 12, 13).
- 21 • Failure to comply with any term of probation is a violation of probation, which entitles the  
22 Board to revoke probation and carry out the disciplinary order of revocation that was  
23 stayed. (Standard terms, Paragraph 16)

24 5. After the effective date of the Decision, and despite multiple requests from the  
25 Board's Probation Unit, Respondent failed and refused to comply with the terms and conditions  
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27 <sup>1</sup> The evidence in support of this Default Decision and Order is submitted herewith as  
28 "Exhibit Packet."



1 of his probation and his license is now subject to revocation pursuant to the Decision.  
2 (Declaration of Virginia Gerard, filed herewith as Exhibit B to Exhibit Packet.)

3 6. On August 17, 2017, Petition to Revoke Probation No. 800-2017-034809 was filed  
4 before the Board. On or about August 17, 2017, Richard M. Acosta, an employee of the Board,  
5 served by Certified Mail a copy of the Petition to Revoke Probation No. 800-2017-034809,  
6 Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code  
7 sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which  
8 was and is: 6451 Silent Harbor Drive, Huntington Beach, CA 92648. A copy of the Petition to  
9 Revoke Probation, the related documents, and Declaration of Service are attached to the Exhibit  
10 Packet, filed herewith as exhibit C, and are incorporated herein by reference.

11 7. Service of the Petition to Revoke Probation was effective as a matter of law under the  
12 provisions of Government Code section 11505, subdivision (c).

13 8. According to the tracking system of the United States Postal Service, the  
14 aforementioned documents were unclaimed despite notice to Respondent. A copy of the tracking  
15 report is filed herewith as exhibit D, and is incorporated herein by reference.

16 9. On September 6, 2017, a Courtesy Notice of Default, together with a copy of the  
17 Petition and related documents was served upon Respondent at his address of record.

18 10. According to the tracking system of the United States Postal Service, the Notice of  
19 Default and related documents were unclaimed despite notice to Respondent. A copy of the  
20 Notice of Default is filed herewith as Exhibit E and a copy of the tracking report is filed herewith  
21 as exhibit F, and are incorporated herein by reference.

#### 22 STATUTORY AUTHORITY

23 11. Business and Professions Code section 118 states, in pertinent part:

24 "(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a  
25 board in the department, or its suspension, forfeiture, or cancellation by order of the board or by  
26 order of a court of law, or its surrender without the written consent of the board, shall not, during  
27 any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its  
28 authority to institute or continue a disciplinary proceeding against the licensee upon any ground



1 provided by law or to enter an order suspending or revoking the license or otherwise taking  
2 disciplinary action against the license on any such ground."

3 12. Government Code section 11506 states, in pertinent part:

4 "(c) The respondent shall be entitled to a hearing on the merits if the respondent files a  
5 notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation  
6 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of  
7 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

8 13. Respondent failed to file a Notice of Defense within 15 days after service upon him  
9 of the Petition to Revoke Probation, and therefore waived his right to a hearing on the merits of  
10 Petition to Revoke Probation No. 800-2017-034809.

11 14. California Government Code section 11520 states, in pertinent part:

12 "(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the  
13 agency may take action based upon the respondent's express admissions or upon other evidence  
14 and affidavits may be used as evidence without any notice to respondent."

15 15. Pursuant to its authority under Government Code section 11520, the Board finds  
16 Respondent is in default. The Board will take action without further hearing and, based on  
17 Respondent's express admissions by way of default and the evidence before it, contained in  
18 exhibits A, B and C, finds that the allegations in Petition to Revoke Probation No. 800-2017-  
19 034809 are true.

20 DETERMINATION OF ISSUES

21 1. Based on the foregoing findings of fact, Respondent Lien Jay Kyri, M.D. has  
22 subjected his Physician and Surgeon's Certificate No. A122548 to discipline.

23 2. A copy of the Petition to Revoke Probation and the related documents and  
24 Declaration of Service are filed herewith.

25 3. The agency has jurisdiction to adjudicate this case by default.

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27 //



1           4.     The Board is authorized to revoke Respondent's Physician and Surgeon's Certificate  
2 based upon the following violations alleged in the Petition to Revoke Probation:

3                 Respondent's probation is subject to revocation because he failed to comply with the  
4 terms and conditions of his probation.


5                                 ORDER

6           IT IS SO ORDERED that Physician and Surgeon's Certificate No. A122548, heretofore  
7 issued to Respondent Lien Jay Kyri, M.D., is revoked.

8           Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a  
9 written motion requesting that the Decision be vacated and stating the grounds relied on within  
10 seven (7) days after service of the Decision on Respondent. The agency in its discretion may  
11 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

12           This Decision shall become effective on November 1, 2017, at 5:00 p.m.

13           It is so ORDERED October 2, 2017

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16                                   
17                                 KIMBERLY KIRCHMEYER, EXECUTIVE DIRECTOR  
18                                 FOR THE MEDICAL BOARD OF CALIFORNIA  
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*Attorneys for Complainant*

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO AUG 15 17 20 17  
BY *[Signature]* ANALYST

8  
9 **BEFORE THE**  
10 **MEDICAL BOARD OF CALIFORNIA**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
12 **STATE OF CALIFORNIA**

11 In the Matter of the Petition to Revoke Probation  
12 Against:

Case No. 800-2017-034809

13 **LIEN JAY KYRI, M.D.**  
6451 Silent Harbor Drive  
14 Huntington Beach, CA 92648-2677

PETITION TO REVOKE PROBATION

15 Physician's and Surgeon's Certificate No. A122548

16 Respondent.

17 **PARTIES**

18 1. Kimberly Kirchmeyer (Complainant) brings this Petition to Revoke Probation solely  
19 in her official capacity as the Executive Director of the Medical Board of California.

20 2. On August 17, 2012, the Medical Board of California (Board) issued Physician's and  
21 Surgeon's Certificate Number A122548 to Lien Jay Kyri, M.D. (Respondent.) Said certificate is  
22 in delinquent status, having expired on February 28, 2014.

23 3. Prior action has been taken by the Medical Board against this certificate as follows:  
24 On July 7, 2010 a Statement of Issues was filed. On March 23, 2012 a Decision After Non-  
25 Adoption became effective under which Respondent's application for an unrestricted Physician's  
26 and Surgeon's Certificate was denied; however, a five year probationary license was issued upon  
27 completion of precedent conditions. On April 20, 2012, Respondent's probationary certificate  
28 was suspended pending passage of a psychological evaluation; and, on August 8, 2012, the



1 suspension was lifted. On November 13, 2014, an Accusation and Petition to Revoke Probation  
2 was filed. On May 19, 2017, a Decision After Reconsideration (2017 Decision) became effective  
3 which read: Revoked, Stayed, Five Years Probation with Terms and Conditions.

#### 4 JURISDICTION

5 4. This Petition to Revoke Probation is brought before the Board, under the authority of  
6 the following laws. All section references are to the Business and Professions Code unless  
7 otherwise indicated.

8 5. Section 2004 of the Code states:

9 "The board shall have the responsibility for the following:

10 "(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice  
11 Act.

12 "(b) The administration and hearing of disciplinary actions.

13 "(c) Carrying out disciplinary actions appropriate to findings made by a panel or an  
14 administrative law judge.

15 "(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of  
16 disciplinary actions.

17 "(e) Reviewing the quality of medical practice carried out by physician and surgeon  
18 certificate holders under the jurisdiction of the board.

19 "(f) Approving undergraduate and graduate medical education programs.

20 "(g) Approving clinical clerkship and special programs and hospitals for the programs in  
21 subdivision (f).

22 "(h) Issuing licenses and certificates under the board's jurisdiction.

23 "(i) Administering the board's continuing medical education program."

24 6. Section 2227 of the Code states:

25 "(a) A licensee whose matter has been heard by an administrative law judge of the Medical  
26 Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default  
27 has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary  
28 action with the board, may, in accordance with the provisions of this chapter:



1       "(1) Have his or her license revoked upon order of the board.

2       "(2) Have his or her right to practice suspended for a period not to exceed one year upon  
3 order of the board.

4       "(3) Be placed on probation and be required to pay the costs of probation monitoring upon  
5 order of the board.

6       "(4) Be publicly reprimanded by the board. The public reprimand may include a  
7 requirement that the licensee complete relevant educational courses approved by the board.

8       "(5) Have any other action taken in relation to discipline as part of an order of probation, as  
9 the board or an administrative law judge may deem proper.

10       "(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical  
11 review or advisory conferences, professional competency examinations, continuing education  
12 activities, and cost reimbursement associated therewith that are agreed to with the board and  
13 successfully completed by the licensee, or other matters made confidential or privileged by  
14 existing law, is deemed public, and shall be made available to the public by the board pursuant to  
15 Section 803.1."

16       7.     Section 2228 of the Code states:

17       "The authority of the board or the California Board of Podiatric Medicine to discipline a  
18 licensee by placing him or her on probation includes, but is not limited to, the following:

19       "(a) Requiring the licensee to obtain additional professional training and to pass an  
20 examination upon the completion of the training. The examination may be written or oral, or  
21 both, and may be a practical or clinical examination, or both, at the option of the board or the  
22 administrative law judge.

23       "(b) Requiring the licensee to submit to a complete diagnostic examination by one or more  
24 physicians and surgeons appointed by the board. If an examination is ordered, the board shall  
25 receive and consider any other report of a complete diagnostic examination given by one or more  
26 physicians and surgeons of the licensee's choice.

27       ///

28



1 “(c) Restricting or limiting the extent, scope, or type of practice of the licensee, including  
2 requiring notice to applicable patients that the licensee is unable to perform the indicated  
3 treatment, where appropriate.

4 “(d) Providing the option of alternative community service in cases other than violations  
5 relating to quality of care.”

6 **THE MAY 19, 2017 DECISION AFTER RECONSIDERATION**

7 8. Respondent was issued a probationary medical license, following a hearing, in a  
8 Decision After Non-Adoption (MBC Case No. 20-2010-205464) effective March 23, 2012. The  
9 certificate was issued subject to a five year term of probation, with terms and conditions, based on  
10 the Board’s concerns for Respondent’s mental state and behavioral issues. Terms and conditions  
11 of probation included a psychiatric evaluation as a condition precedent to practice,  
12 psychotherapy, practice monitor, a solo practice prohibition and standard terms and conditions.

13 9. Respondent failed to comply with the terms of the March 23, 2012 Decision After  
14 Non-Adoption, and in 2014, an Accusation and Petition to Revoke Probation was filed in Case  
15 No. 800-2014-007598. Ultimately, a hearing was held and the Board’s Decision After  
16 Reconsideration became effective on May 19, 2017.

17 10. The 2017 Decision contained findings that Respondent failed to comply with the  
18 terms of his then-existing probation: Respondent failed to maintain a current and renewed  
19 certificate; failed to practice medicine during probation; and, failed to cooperate with the Board’s  
20 probation staff. The Board noted in its 2017 Decision that the 2012 Decision After Non-  
21 Adoption was designed to allow Respondent “to demonstrate to the Board, through his practice as  
22 a physician and through compliance with other conditions, that an unrestricted certificate would  
23 eventually be warranted” and that Respondent had failed to demonstrate to the Board that he  
24 could practice safely. The Board further noted its “serious concerns with Respondent’s ability to  
25 adhere to the rules and conditions placed upon him, and in turn, is concerned with the public’s  
26 safety if Respondent is allowed to practice medicine.” In spite of these issues, the Board placed  
27 “great weight on Respondent’s desire to move forward and demonstrate to the board his ability to  
28 safely practice medicine.” In deciding to give Respondent another opportunity to work with the



1 Board and successfully complete probation, the Board noted its concern for Respondent's history  
2 of aggressive and intimidating verbal interactions with Board staff and the public, and concluded  
3 that Respondent would benefit from coursework in anger management, interpersonal skills and  
4 conflict resolution. Because Respondent had not practiced in California since his probationary  
5 license was issued in 2012, and had not demonstrated his ability to adhere to the provisions of his  
6 probationary license, the Board determined the "only way the public can be protected is to place  
7 him on a period of probation under the watchful eyes of the board's probation staff." The Board  
8 specifically noted that "Respondent testified that he is 'willing to follow every regulation  
9 necessary.' And the Board sincerely hopes he keeps true to his word."

10 11. Under the terms of the 2017 Decision, Respondent's probationary license and the  
11 stayed disciplinary order in Case No. 20-2010-205464 were revoked. However, the revocation of  
12 license was stayed, and Respondent was placed on probation for five years. Terms and  
13 Conditions of Probation pertinent to this Petition to Revoke Probation include:

- 14 • Psychotherapy: Respondent was required to undergo psychotherapy during probation  
15 (Condition 1);
- 16 • Coursework: Respondent was required to enroll in and complete courses/programs in  
17 Interpersonal Skills, Conflict Resolution and Anger Management (Conditions 2, 3, 4);
- 18 • Practice Monitor: Respondent was ordered to nominate a practice monitor and practice  
19 under an approved monitor (Condition 5);
- 20 • Standard Terms and Conditions of Probation, which specifically include submission of  
21 quarterly declarations, compliance with the Board's probation unit, keeping the Board  
22 informed of business and residence addresses, email address, and telephone number.  
23 Respondent must maintain a current and renewed California license, be available for  
24 interviews with the Board's probation unit (Conditions 11, 12, 13).

25 12. The 2017 Decision provides:

26 "Failure to fully comply with any term of condition of probation is a violation of  
27 probation. If respondent violates probation in any respect, the Board, after giving respondent  
28



1 notice and the opportunity to be heard, may revoke probation and carry out the disciplinary  
2 order that was stayed...”

### 3 CAUSES TO REVOKE PROBATION

4 13. The 2017 Decision was served on Respondent and his then attorneys on May 17,  
5 2017. On May 22, 2017, Respondent’s assigned Medical Board Probation Monitor began what  
6 would prove to be extensive efforts to schedule Respondent for his intake interview and seek  
7 compliance with the 2017 Decision. She telephoned Respondent, who did not answer his phone,  
8 which was not accepting messages. Between May 22 and July 24, 2017, the Board’s Probation  
9 Monitor made numerous attempts to reach Respondent by mail, email and telephone. She also  
10 contacted Respondent’s then attorneys, who notified the Probation Monitor that they could not  
11 distribute Respondent’s cell phone number. Respondent did not contact the Probation Unit  
12 regarding his probation, and made no response to the repeated contacts.

13 14. On June 28, 2017, the Board issued and served a Citation Order and Order of  
14 Abatement. The Citation imposed a fine for non-compliance with the terms and conditions of  
15 probation, and the Order of Abatement directed Respondent to maintain compliance with the  
16 terms and conditions of the 2017 Decision, to schedule an intake interview and to renew his  
17 Physician’s and Surgeon’s Certificate within 30 days. Respondent did not comply with any aspect  
18 of the Citation Order and Order of Abatement.

19 15. On July 20, 2017, Respondent’s attorneys sent a letter to the Board’s Probation Unit,  
20 acknowledging receipt of correspondence regarding Respondent, and stating they were no longer  
21 representing Respondent. On July 21, 2017, the Probation Unit sent Respondent a letter,  
22 informing him that he was in violation of his probation, and enumerating the specific areas of  
23 non-compliance. Respondent was advised that the matter was referred to the Attorney General’s  
24 Office for disciplinary action for failure to comply with the conditions of probation.

25 16. The 2017 Decision, Condition 1, required Respondent to within 60 days of its  
26 effective date, submit to the Board for prior approval the name and qualifications of a  
27 psychotherapist, and to undergo treatment with the approved clinician. Respondent’s probation is  
28 subject to revocation because he failed to comply with Probation Condition 1.



1        17. The 2017 Decision, Condition 2, required Respondent to within 60 days of its  
2 effective date, enroll in a Board approved Interpersonal Skills course/program, to begin  
3 attendance in the course/program within 90 days, and to complete the entire course/program  
4 within six months of his initial enrollment. Respondent's probation is subject to revocation  
5 because he failed to comply with Probation Condition 2.

6        18. The 2017 Decision, Condition 3, required Respondent to within 60 days of its  
7 effective date, enroll in a Board approved Conflict Resolution course/program, to begin  
8 attendance in the course/program within 90 days, and to complete the entire course/program  
9 within six months of his initial enrollment. Respondent's probation is subject to revocation  
10 because he failed to comply with Probation Condition 3.

11        19. The 2017 Decision, Condition 4, required Respondent to within 60 days of its  
12 effective date, enroll in a Board approved Anger Management course/program, to begin  
13 attendance in the course/program within 90 days, and to complete the entire course/program  
14 within six months of his initial enrollment. Respondent's probation is subject to revocation  
15 because he failed to comply with Probation Condition 4.

16        20. The 2017 Decision, Condition 5, required Respondent to within 30 days of its  
17 effective date, submit to the Board for its approval a practice monitor, and thereafter to have his  
18 practice monitored. Respondent's probation is subject to revocation because he failed to comply  
19 with Probation Condition 5.

20        21. The 2017 Decision, Condition 11, required Respondent to submit quarterly  
21 declarations under penalty of perjury on forms provided by the Board, stating whether there has  
22 been compliance with all the conditions of probation. The quarterly declarations are required to  
23 be submitted not later than 10 calendar days after the end of each quarter. Respondent's  
24 probation is subject to revocation because he failed to submit any quarterly declarations.

25        22. The 2017 Decision, Condition 12, includes requirements that Respondent comply  
26 with the Board's Probation Unit and maintain a current and renewed California certificate.  
27 Respondent's probation is subject to revocation because he failed to respond to repeated contacts  
28



1 from the Board's Probation Unit, wholly failed to cooperate with the Board's Probation Unit, and  
2 failed to renew his delinquent certificate.

3 23. The 2017 Decision, Condition 13, requires Respondent to be available in person upon  
4 request for interviews throughout the term of probation. Respondent's probation is subject to  
5 revocation because he failed to respond to multiple requests for an interview with the Board's  
6 Probation Unit.

7 **PRAYER**

8 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
9 and that following the hearing, the Board issue a decision:

10 1. Revoking the probation that was granted by the Medical Board of California in Case  
11 No. 800-2014-007598 and imposing the disciplinary order that was stayed thereby revoking  
12 Physician's and Surgeon's Certificate No. A122548 issued to Lien Jay Kyri, M.D.;

13 2. Revoking, suspending or denying approval of Lien Jay Kyri, M.D.'s authority to  
14 supervise physician's assistants and advanced practice nurses;

15 3. Ordering Respondent, if placed on probation, to pay the costs of probation  
16 monitoring;

17 4. Taking such other and further action as deemed necessary and proper.

18 DATED: August 17, 2017



KIMBERLY KIRCHMEYER  
Executive Director  
Medical Board of California  
State of California  
Complainant